

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of Missouri Gas Energy's Tariffs)	
Increasing Rates for Gas Service Provided to)	Case No. GR-2006-0422
Customers in the Company's Missouri Service)	
Area.)	

**MGE'S RESPONSE TO PUBLIC COUNSEL'S
MOTION TO REJECT TARIFF FILING**

Comes now Missouri Gas Energy (MGE), a division of Southern Union Company, and, in response to the Office of the Public Counsel's (Public Counsel) Motion to Reject Tariff Filing and Motion for Directed Verdict (Motion to Reject), states as follows to the Missouri Public Service Commission (Commission):

1. On August 17, 2006, Public Counsel filed its Motion to Reject alleging that MGE's tariff filing in this case does not comply with Section 393.1015.6(1), concerning the infrastructure system replacement surcharge (ISRS). The Staff of the Commission (Staff) filed its pleading in opposition to the Public Counsel's Motion to Reject on August 22, 2006.

2. MGE filed tariff sheets initiating this general rate case on May 1, 2006. Included with that filing was MGE's direct testimony in support of its request, as required by Commission Rule 4 CSR 240-2.065(1), and the Commission's minimum filing requirements, as required by Commission Rule 4 CSR 240-3.030.

3. Public Counsel alleges that MGE's filing was deficient because MGE did not propose a tariff reflecting that MGE's ISRS be set to zero.

4. Nothing in the Commission's rules specifies what tariff sheets must be filed to initiate a general rate case. Commission Rule 4 CSR 240-3.030(2) states only that a "general

rate increase request is one where the company or utility files for an overall increase in revenues through a company-wide increase in rates for the utility service it provides”¹ See also Commission Rule 4 CSR 240-2.065(1). No specific list of required tariff sheets is found. In fact, Commission Rule 4 CSR 240-3.030(3) seems to contemplate that a general rate increase request may be initiated by the filing of a single tariff sheet stating, in part, “[a]t the time a *tariff(s)* is filed by any company or utility subject to this rule which contains a general rate increase request. . . the following information shall be filed” (emphasis added).

5. Section 393.150, RSMo, which governs the filing of tariffs containing a new rate or charge, likewise does not require that any specific tariff sheet or sheets be filed. It states that “whenever there shall be filed with the commission by any gas corporation . . . *any schedule* stating a new rate or charge . . . the commission shall have, and is hereby given, authority, either upon complaint or upon its own initiative . . . to enter upon a hearing concerning the propriety of such rate” (emphasis added).

6. Public Counsel’s argument is based on the language of Section 393.1015.6(1), which is also substantially reflected in Commission Rule 4 CSR 240-3.265(18). This provision states as follows:

A gas corporation that has implemented an ISRS pursuant to the provisions of sections 393.1009 to 393.1015 shall file revised rate schedules to reset the ISRS to zero *when new base rates and charges become effective for the gas corporation following a commission order establishing customer rates in a general rate*

¹ Section 393.1015.7, RSMo makes clear that an ISRS request is not a general rate case, stating that a “gas corporation's filing of a petition or change to an ISRS . . . shall not be considered a request for a general increase in the gas corporation's base rates and charges.”

proceeding that incorporates in the utility's base rates subject to subsections 8 and 9 of this section eligible costs previously reflected in an ISRS.
(emphasis added).

7. The plain language of this statute (and rule) requires that Public Counsel's Motion to Reject be denied. The language states that a tariff shall be filed to reset the ISRS to zero "when new base rates and charges become effective for the gas corporation following a commission order establishing customer rates." No commission order establishing customer rates has been issued in this case and, certainly, no new base rates and charges have become effective. Section 393.1015.6(1) is not applicable at this point in time.

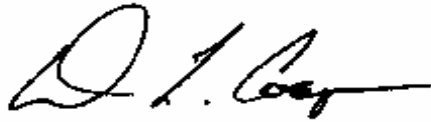
8. MGE fully anticipates, and intends, to file a tariff sheet resetting its ISRS to zero when new base rates and charges become effective for the gas corporation following a Commission order establishing customer rates in this case. Doing so would be consistent with the process utilized by MGE, and the Commission, in MGE's last general rate case – Case No. GR-2004-0209. MGE initiated Case No. GR-2004-0209 by filing the tariff sheets identified by the Commission Tracking Number YG-2004-0624. A review of this filing reveals that MGE's sheet number 10, containing MGE's ISRS, was not a part of that filing. The tariff sheets filed with the Commission following a commission order establishing customer rates in that case did, however, include a tariff sheet (sheet number 10) resetting the ISRS to zero. *See* Commission Tracking Number YG-2005-0235 and Order Approving Tariff in Compliance with Commission Report and Order, Case No. GR-2004-0209, September 30, 2004. No objection was raised in that case as to the process followed by MGE and approved by the Commission.

9. There is no support for Public Counsel's Motion to Reject found in statute,

regulation or practice. Accordingly, the Motion to Reject should be denied.

WHEREFORE, MGE respectfully requests that the Commission deny the Public Counsel's Motion to Reject Tariff Filing and Motion for Directed Verdict.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "D. L. Cooper", written over a horizontal line.

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ATTORNEYS FOR MISSOURI GAS ENERGY,
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CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been sent by electronic mail this 25th day of August, 2006, to:

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